

§ 2201.9

29 CFR Ch. XX (7–1–01 Edition)

Freedom of Information Act Officer may resort to the debt collection procedures set out in the Debt Collection Act of 1982, Pub. L. 97–365, including disclosure to consumer credit reporting agencies (see 26 U.S.C. 6103) and use of collection agencies to encourage payment. See 31 U.S.C. 3718 and 3302.

[53 FR 17930, May 19, 1988, as amended at 61 FR 14025, Mar. 29, 1996]

§ 2201.9 Waiver of fees.

(a) *General.* The Freedom of Information Act Officer shall waive part or all of the fees assessed under § 2201.8(b) if two conditions are satisfied: Disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government; and disclosure is not primarily in the commercial interest of the requester. The Freedom of Information Act Officer shall afford the requester the opportunity to show that he comes within these two conditions. The following factors may be considered in determining whether the two conditions are satisfied:

(1) Whether the subject of the requested records concerns the operations or activities of the government;

(2) Whether the disclosure is likely to contribute significantly to public understanding of government operations or activities;

(3) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so, whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(b) *Partial waiver of fees.* If the two conditions stated in paragraph (a) of this section are met, the Freedom of Information Act Officer will ordinarily waive all fees. In exceptional cases, however, only a partial waiver may be granted if the request for records would impose an exceptional burden or require an exceptional expenditure of Commission resources, and the request for a waiver minimally satisfies the “public interest” requirement in paragraph (a) of this section.

§ 2201.10 Maintenance of statistics.

(a) The Freedom of Information Act Officer shall maintain records of:

(1) The number of determinations made by the agency not to comply with the requests for records made to the agency and the reasons for those determinations;

(2) The number of appeals made by persons, the results of those appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) A complete list of all statutes that the agency used to authorize the withholding of information under 5 U.S.C. 552(b)(3), which exempts information that is specifically exempted from disclosure by other statutes;

(4) A description of whether a court has upheld the decision of the agency to withhold information under each of those statutes cited, and a concise description of the scope of any information upheld;

(5) The number of requests for records pending before the agency as of September 30 of the preceding year and the median number of days that these requests had been pending before the agency as of that date;

(6) The number of requests for records received by the agency and the number of requests the agency processed;

(7) The median number of days taken by the agency to process different types of requests;

(8) The total amount of fees collected by the agency for processing requests;

(9) The average amount of time that the agency estimates as necessary, based on the past experience of the agency, to comply with different types of requests;

(10) The number of full-time staff of the agency devoted to the processing of requests for records under this section; and

(11) The total amount expended by the agency for processing these requests.

(b) The Freedom of Information Act Officer shall annually, on or before February 1 of each year, prepare and submit to the Attorney General an annual report covering each of the categories of records to be maintained in accordance with paragraph (a) of this

section, for the previous fiscal year. A copy of the report will be available for public inspection and copying at the Commission Information Office and a copy will be accessible through the Internet at OSHRC's World Wide Web site at <http://www.oshrc.gov>.

[65 FR 24131, Apr. 25, 2000]

PART 2202 [RESERVED]

PART 2203—REGULATIONS IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

2203.1 Purpose and scope.

2203.2 Definitions.

2203.3 Public attendance at Commission meetings.

2203.4 Procedures applicable to regularly-scheduled meetings.

2203.5 Procedures applicable to other meetings.

2203.6 Certification by the General Counsel.

2203.7 Transcripts, recordings and minutes of closed meetings.

AUTHORITY: 29 U.S.C. 661(g); 5 U.S.C. 552b(d)(4); 5 U.S.C. 552b(g).

SOURCE: 50 FR 51679, Dec. 19, 1985, unless otherwise noted.

§ 2203.1 Purpose and scope.

This part applies to all meetings of the Occupational Safety and Health Review Commission. Its purpose is to implement the Government in the Sunshine Act, 5 U.S.C. 552b. The rules in this part are intended to open to public observation, to the extent practicable, the meetings of the Commission, while preserving the Commission's ability to fulfill its adjudicatory responsibilities and protecting the rights of individuals.

§ 2203.2 Definitions.

For the purposes of this part:

Expedited closing procedure means the simplified procedures described at 5 U.S.C. 552b(d)(4) for announcing and closing certain agency meetings.

General Counsel means the General Counsel of the Commission, the Deputy General Counsel, or any other person designated by the General Counsel to carry out his responsibilities under this part.

Meeting means the deliberations of at least two Commissioners, where such deliberations determine or result in the joint conduct or disposition of "official Commission business." A conference telephone call among the Commissioners is a *meeting* if it otherwise qualifies as a *meeting* under this paragraph. The term does not include:

(a) The deliberations required or permitted under §§ 2203.4(d) and 2203.5, e.g., a discussion of whether to open or close a meeting under this part;

(b) Business that is conducted by circulating written materials sequentially among the Commissioners for their consideration on an individual basis;

(c) A gathering at which the Chairman of the Commission seeks the advice of the other Commissioners on the carrying out of a function that has been vested in the Chairman, by statute or otherwise; or

(d) Informal discussions of the Commissioners that clarify issues and expose varying views but do not effectively predetermine official actions.

Official Commission business means matters that are the responsibility of the Commission acting as a collegial body, including the adjudication of litigated cases. The term does not include matters that are the responsibility of the Commission's Chairman. See, e.g., 29 U.S.C. 661(e).

Regularly-scheduled meetings means meetings of the Commission that are held at 10:00 a.m. on Thursday of each week, except on legal holidays. The term includes regularly-scheduled meetings that have been rescheduled for another time or day.

§ 2203.3 Public attendance at Commission meetings.

(a) *Policy.* Commissioners will not jointly conduct or dispose of official Commission business in a meeting unless it is conducted in accordance with this part. Because the Commission was created for the purpose of adjudicating litigated cases, it can be expected that most of its meetings will be closed to the public. However, meetings that do not involve Commission adjudication or discussion of issues in cases before it will be open to the extent practicable.